

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION

No. 7:03-CR-00067-F-1

This matter is before the court on Willie Allen's Motion for Downward Variance [DE-61]. In his motion, Allen requests immediate release from custody and a one-year term of supervised release. *Id.* at 4.

In this case, the advisory guideline range called for 51 to 63 months of imprisonment, one to three years of supervised release, a fine between \$5,000 and \$50,000, and a special assessment of \$100. At the time of his resentencing, on November 4, 2016, Allen had served more than ten years of imprisonment on his federal sentence. In sum, because Allen’s request falls within the advisory guideline range, he was not actually seeking a variance. *See United States v. Quarles*, 889 F.Supp.2d 783, 786 (E.D. Va. 2012) (“A sentence imposed pursuant to a variance is, by definition, a sentence outside the applicable guideline range.”). Consequently, Allen’s Motion for Downward Variance [DE-61] is DISMISSED.

SO ORDERED.

This, the 7 day of November, 2016.

James C. Fox  
JAMES C. FOX  
Senior United States District Judge